



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

INFORMATION: The Uniform Act and Transportation
Enhancements

Date November 1, 1996

Subject:

From Associate Administrator for
Program Development

Reply to
Attn of:

HRE-01

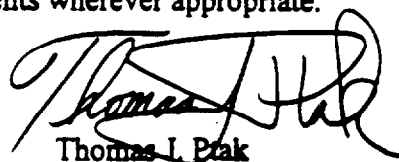
To Regional Administrators

New Federal-aid program partners, such as transportation enhancement sponsors, often view the Uniform Act as a complex set of requirements, though with an important purpose - to protect the rights of property owners and ensure equitable treatment for displaced persons. In order to relieve some of the concern about the complexity, we want to highlight the simplified acquisition procedures available under the Uniform Act regulations. The regulations [49 CFR 24.101(a)(2)] specifically allow so-called "voluntary transactions" by entities that lack condemnation authority, such as non-profit organizations.

The governmentwide Uniform Act regulations have contained voluntary transaction provisions since 1989 in order to accommodate the program needs of other Federal agencies. For example, the property needs of many Department of the Interior (DOI) programs do not rely on invoking eminent domain authority, which typically is a necessary option in the highway program where project alignment dictates specific parcels. Many, if not most, Federal-aid transportation enhancement activities are quite similar to these DOI acquisitions. Although they were not initially thought of in terms of the Federal-aid highway program, voluntary transaction procedures clearly can be used to reduce the complexity of acquisitions, especially in certain transportation enhancement situations.

Voluntary transaction procedures may be used by a private entity if the acquisition--and this is the key--is, indeed, voluntary. Voluntary means that the owner is informed in writing by the private entity acquiring the property that it is unable to acquire the property if negotiations fail. In other words, the potential buyer must convey clearly its intention to "walk away" if the owner does not agree to sell the property. When this condition is met, the acquiring entity then needs only to provide the owner with an estimate of the fair market value of the property. When these two conditions are met, no other Uniform Act requirements apply to the owner. If there are any tenants on the property, they remain eligible for relocation assistance as if they were displaced under the threat of condemnation.

Federal-aid transportation enhancements embody the new partnerships we are striving to build under ISTEA and our strategic plan. We encourage you to ensure Division Office staff and State partners are fully aware of the voluntary transaction procedures and encourage their use in acquiring property for transportation enhancements wherever appropriate.

A handwritten signature in black ink, appearing to read "Thomas I. Plak", with a stylized flourish at the end.

Thomas I. Plak